

Submission  
No 92

## INQUIRY INTO NSW WORKERS COMPENSATION SCHEME

**Organisation:** Community Care Consortium

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10 May 2012

Joint Select Committee on the NSW Workers Compensation Scheme  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

### **Submission to the NSW Parliamentary Joint Select Committee on the NSW Workers Compensation Scheme**

Representing Home and Community Care service provider peak bodies, the Community Care Consortium (CCC) acts on behalf of the vast majority of service providers in the NSW Home and Community Care (HACC) program. The HACC program delivers services to a wide range of frail aged people and those with disability in their homes and is designed to ensure that they remain living in their own homes as part of the community for as long as possible. The CCC is made up of representatives from NSW Meals on Wheels Association, NSW Community Transport Organisation, NSW Home Modification and Maintenance Services State Council, NSW Neighbour Aid and Social Support Association, and NSW Community Options.

The CCC agrees wholeheartedly with the decision to harmonise the NSW workplace health and safety (WHS) laws with those of other States to create a seamless network of protections for workers and volunteers across Australia. The CCC notes that a number of States have not as yet finalised their agreement with this reform and look forward to their doing so in the not too distant future. The CCC believes that the extension of WHS protections to volunteers already available to NSW paid employees overcomes an anomalous situation and will ensure that employers in our sector have the same obligations to provide a safe workplace for their volunteers as they do for their paid employees.

However, the achievement of this long overdue reform has highlighted some related anomalies and we believe are vital for the NSW Government to address to ensure that volunteers, who selflessly contribute their time to the community, have the same range of rights as paid employees.

The first of these relates to the failure of workers compensation legislation in NSW to cover volunteers. The legislation is complementary to the WHS legislation in that it ensures that, were a failure to comply with the WHS laws to apply or where that compliance was insufficient to prevent an accident, the paid employee will have reimbursed to them the costs incurred in dealing with the consequences of that accident and the loss of income sustained as a result of it. At a time when volunteering in our community is under strain as a result of increasing time pressures on those who might otherwise be interested, it is vital that we not impose any



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additional burdens on those who choose to volunteer. In addition, for the many not-for-profit services in the HACC sector, our attractiveness to younger volunteers is under severe strain. The fact that a volunteer, who may also be in full or part-time employment, would receive no financial compensation or sustenance of income from their paid employment were they to be injured whilst volunteering will, when more widely known, be a major disincentive to engage in volunteering.

There is of course also the issue of fairness of treatment to be addressed. This fact has already been recognised in the legislation regarding Emergency Service and Bush Fire Brigade volunteers who are classified as "workers" for the purposes of workers compensation. Whilst it is certainly true that such people operate in inherently uncontrollable environments for their employers, this is also true of volunteers who spend much of their volunteer time in the community and in people's homes.

The second anomaly seems to be a hangover from the time when there was an official retirement age. Paid workers over 66 are not covered by Workers Compensation legislation. In a sector such as ours with a high preponderance of older workers, this is a major blockage to retention of vital skills and commitment. The CCC understands that the Workers Compensation legislation in Western Australia has been amended to eliminate this discriminatory provision.

The CCC believes that there needs to be amendments to the Workers Compensation legislation that mirrors the changes to the WHS legislation and removes the discrimination against older workers and volunteers.

Yours sincerely

Les MacDonald  
Chief Executive Officer  
NSW Meals on Wheels Association

Stacey Sheppard-Smith  
Executive Officer  
NSW HMMS State Council Inc



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David Atkins  
Executive Officer  
Community Transport Organisation

Vivian  
Executive Officer  
NSW Community Options Inc

Helen Ivory  
Chairperson  
NSW Neighbour Aid & Social Support Ass

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